

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

EAM 40 MEADOW LANE LLC,

Debtor.

GEORGE L. MILLER, in his capacity as  
Chapter 7 Trustee for the bankruptcy estate of  
EAM 40 Meadow Lane LLC,

Plaintiff,

v.

ERMITAGE ONE LLC, *et al.*

Defendants.

Chapter 7

Case No. 22-10293 (BLS)

Adv. Pro. No. 24-50034 (BLS)

**AFFIDAVIT OF COUNSEL IN SUPPORT OF  
PLAINTIFF’S REQUEST FOR DEFAULT**

I, Simon E. Fraser, being first duly sworn to oath, hereby affirm as follows:

A. I am an attorney admitted to practice in the District of Delaware and a member of the law firm of Cozen O’Connor (“Cozen”). I represent George L. Miller, not individually, but solely in his capacity as chapter 7 trustee for the bankruptcy estate of the above-captioned debtor (the “Plaintiff”), in the above-captioned adversary proceeding.

B. I submit this affidavit (the “Affidavit”) in support of the *Plaintiff’s Request for Entry of Default* and *Plaintiff’s Request for Entry of Default Judgment*, pursuant to 50 U.S.C. app., Section 520 and Fed. R. Civ. P. 55(b)(1), made applicable by Fed. R. Bankr. P. 7055. I have personal knowledge of the facts set forth in this Affidavit.

C. On April 5, 2024, Plaintiff filed his *Complaint* (the “Complaint”)<sup>1</sup> against Ermitage One LLC (the “Defendant”) seeking to recover from the Defendant pursuant to 11 U.S.C.

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<sup>1</sup> Any capitalized terms not defined herein shall have the meanings ascribed to them in the Complaint.

§ 550(a)(2) the sum certain amount of \$2,200,000.00, which represents the amount of the Subsequent Transfers made to the Defendant, plus court costs of \$350.00. *See* Dkt. No. 1.

D. On or about April 8, 2024, Cozen caused the Defendant to be served with this Court's Summons and Notice of Pretrial Conference in an Adversary Proceeding (the "Summons"), together with a copy of the Complaint in this action, in accordance with Fed. R. Bankr. P. 7004 at the following addresses:

Ermitage One LLC  
605 Third Avenue  
New York, NY 10158  
Attn: President, Officer, Managing  
and/or General Agent, Or, Other Agent

-and-

Ermitage One LLC  
c/o Davidoff, Hutcher & Citron LLP  
605 Third Avenue  
New York, NY 10158  
Attn: Larry Hutcher, Esq.

-and-

Ermitage One LLC  
1826 W. 23rd Street  
Miami Beach, FL 33140  
Attn: President, Officer, Managing  
and/or General Agent, Or, Other Agent

*See* Dkt. No. 5. The Summons stated that the Defendant was required to file a response to the Complaint within 30 days after the date of issuance of the Summons, namely, by May 6, 2024. A Certification of Service was filed on June 11, 2024. *Id.*

E. The Defendant, by and through its counsel Rottenstreich Farley Bronstein Fisher Potter Hodas LLP, entered into two stipulations for extensions of time to respond to the Complaint with the Trustee. *See* Dkt. Nos. 7, 11. The Court entered orders approving both stipulations. *See* Dkt. Nos. 8, 12. Pursuant to the stipulations, the Defendant was required to file a response to the Complaint by November 1, 2024. *See* Dkt. No. 12.

F. The Defendant failed to file an answer, motion or responsive pleading or otherwise defend against the Complaint within the time required by the stipulations. Further, the Defendant's counsel failed to respond to the Trustee's counsel's communication attempts.

G. Pursuant to Del. Bankr. L.R. 7055-1, copies of *Plaintiff's Request for Entry of Default* and *Plaintiff's Request for Entry of Default Judgment* will be served on the Defendant at approximately the same time as they are filed with the Court.

H. The requirements of 50 U.S.C. app. Section 520 of the Soldiers' and Sailors' Civil Relief Act of 1940 are not applicable to this proceeding as the Defendant is not an individual and is not in the military service.

I state under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated: November 15, 2024

/s/ Simon E. Fraser

Simon E. Fraser (DE No. 5335)  
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*Counsel for George L. Miller, Chapter 7  
Trustee*